

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Pamela Dillard,

Plaintiff,

v.

Comenity LLC,

Defendant.

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Civil Action No.: 2:14-cv-10025

DEMAND FOR JURY TRIAL

COMPLAINT & JURY DEMAND

For this Complaint, the Plaintiff, Pamela Dillard, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

4. The Plaintiff, Pamela Dillard ("Plaintiff"), is an adult individual residing in Detroit, Michigan, and is a "person" as defined by 47 U.S.C. § 153(10).
5. Defendant Comenity LLC ("Comenity"), is an Ohio business entity with an address of 1300 East Ninth Street, Cleveland, Ohio 44114, and is a "person" as defined by 47 U.S.C. § 153(10).

6. Comenity at all times acted by and through one or more of the agents.

FACTS

7. Within the last four years, the Defendant contacted Plaintiff for reasons unknown to Plaintiff.

8. At all times mentioned herein, Comenity contacted Plaintiff by placing calls to Plaintiff's cellular phone, number 313-xxx-4222, using an automated telephone dialer system ("ATDS") and/or an artificial or prerecorded voice.

9. When Plaintiff answered such calls from Comenity, beginning in December 2013, she would hear a prerecorded message instructing her to hold until she could be connected to a live operator. However, instead of being connected to a live operator, after client waited on the line the calls would terminate.

10. When Plaintiff called Comenity back to attempt to learn why they were calling, she was put through a series of automated prompts, and was unable to gain any information about the nature of the automated calls.

11. Upon information and belief, Plaintiff has never done business with Comenity, has never provided her cellular telephone number to Comenity, and has never given Comenity permission to place such calls to her cellular phone.

COUNT I

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.**

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. Without prior express consent the Defendant contacted the Plaintiff by means of an ATDS and/or a prerecorded voice on her cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

14. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

15. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C); and
2. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 3, 2014

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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